



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

August 22, 1991
AO-91-16

Mr. Paul A. Melkonian
39 Oak Street
Stoneham, MA 02180

Re: Political Activities of Public Employees

Dear Mr. Melkonian:

This letter is in response to your June 10, 1991, letter requesting an advisory opinion.

In your letter as well as your telephone conversation on July 15, 1991, with the Office's General Counsel, Peter Sturges, you have stated that you are employed by the Commonwealth of Massachusetts' Department of Employment and Training (DET). Although the monies for your salary are funded pursuant to the Federal Unemployment Tax Act, you were hired by persons employed by the Commonwealth, are directly paid by the Commonwealth, participate in the Commonwealth's retirement programs and receive all the other benefits of non-federally funded state employees.

You have asked a number of specific questions regarding your rights to participate in political activities while working for DET. Rather than address your questions individually, this letter will answer them in its discussion of the issues raised by your questions and by reference to a prior advisory opinion.

M.G.L. c.55, s.13 provides, in pertinent part:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purposes whatever, but this section shall not prevent such person from being members of political organizations or committees.

Although part or all of your salary may be federally funded, it is the opinion of this Office that you would be considered a person "employed for compensation . . . by the commonwealth" (hereinafter "public employee"). This is because

you are paid from a state account, receive a state paycheck, participate in the state's retirement program, receive other state benefits such as health insurance common to other state employees and your work is authorized and supervised by the commonwealth.

Section 13 of M.G.L. c.55 prohibits a public employee's participation in political fund-raising activities. You may not directly solicit or receive monies. You also may not indirectly solicit or receive monies, for example, by having your name on the letterhead of a fund-raising letter or being the featured speaker at a fund raising event.

I have enclosed a recent advisory opinion (A0-91-09) which describes many of the restrictions on a public employee's political fund-raising activities resulting from section 13's prohibition against the direct or indirect solicitation and/or receipt of monies by public employees. Please note that the other provisions of chapter 55 which are referenced in that opinion (M.G.L. c.55, ss. 14, 15, 16 and 17) also apply to your situation.

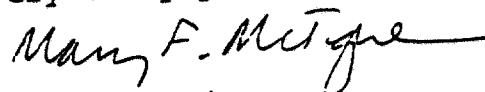
By its terms, section 13 does not prohibit persons employed for compensation by the commonwealth from joining or being part of a political committee. Therefore, you may be a member of the Stoneham Republican Town Committee or a multi-candidate committee (a so-called PAC). Finally, although section 13 does not prohibit your serving as an officer (other than treasurer) of such a committee, we would caution you that it is difficult for a public employee to meet his or her obligations and responsibilities as an officer (particularly as chairperson) of a political committee in view of the restrictions imposed by M.G.L. c.55, s.13.

Your letter refers to other laws, rules and codes of conduct (the "Hatch Act", the "Conflict-of-Interest Law, the "Unit One/Six Code of Conduct" among others - collectively hereinafter "laws") and asks which law takes precedence. Each of these laws are concerned with various and sometimes overlapping aspects of public employee conduct. As a general rule, if two or more of these laws are relevant to the same issue, the most restrictive one will apply. Therefore, any questions you have with respect to these other laws should be addressed to the appropriate state or federal agency.

This opinion has been rendered solely on the basis of representations made in your letter and conversation with the Office's General Counsel.

I have included a copy of the Office's "Campaign Finance Guide For Public Employees" for your information. Please do not hesitate to contact this Office if you have additional questions regarding campaign finance matters.

Very truly yours,



Mary F. McTigue
Director

Enclosures